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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

IRAQ

1. The Committee considered the third periodic report of Iraq on the righ covered by articles 1 to 15 of the Covenant (E/1994/106/Add.9) at its 33rd to 35th meetings, on 20 and 21 November 1997, and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to resume its dialogue with Irac through the consideration of the State party's third periodic report. The Committee expresses its satisfaction to Iraq for the submission of written answers to its list of issues, and it takes note that despite the difficult situation faced by Iraq, a delegation was sent from the capital to present the report and answer questions raised by members of the Committee. In this respect, the willingness of the State party to conduct a constructiye dialogu with the Committee is noted with appreciation.

3. However, the Committee regrets that the report submitted by the State party did not incorporate information on articles 13 to 15 of the Covenant, although it recognizes that such information was, to a certain extent, provided by the delegation in the course of the dialogue.

1/ At its 52nd meeting, on 4 December 1997.

B. Positive aspects

4. The Committee notes with satisfaction that, according to the legal system of Iraq, the Covenant forms an integral part of the national legislation and may be directly invoked before the courts, although it regrets the lack of information on any cases where the Covenant was actually referred to by the courts or invoked directly before the courts.

5. The Committee notes that a Human Rights Commission was recently established within the National Assembly, although it regrets the lack of information on its functions, powers and activities to date.

6. With respect to gender equality, the Committee notes with appreciation the existence of laws to promote women's participation in national development, providing them with equal opportunities in education, health, employment and land ownership, and protecting them from exploitation and sexual harassment in the workplace. Moreover, it notes that women have the right to six months' maternity leave with full salary, plus six months with half their salary, and can retire at 55 years of age.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee recognizes that eight years of war with the Islamic Republic of Iran and the conflict following Iraq's invasion of Kuwait caused the destruction of part of the country's infrastructure and considerable human suffering, and produced a very difficult economic and social situation in Iraq. The Committee also notes that the living standard of large sections of the Iraqi population has been reduced to subsistence level since the imposition of the embargo, which led to the decrease of the country's oil revenue from approximately $20 to 2 billion a year, and that this situation is further aggravated by the sharp rise in consumer prices.

8. In this respect, the Committee endorses resolution 1997/35 adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on adverse consequences of economic sanctions on the enjoyment of human rights, and puts particular emphasis on the fact that "such measures most seriously affect the innocent population, in particular the weak and the poor, especially women and children, (and ...) have a tendency to aggravate the imbalances in income distribution already present in the countries concerned".

9. However, the Committee, while noting that the effect of sanctions and blockades hampers the full implementation of certain rights under the Covenant, underlines that the State party remains responsible to implement its obligations under the Covenant "to the maximum of its available resources" in accordance with article 2, paragraph 1, of the Covenant.

D. Principal subjects of concern

10. The Committee notes with concern the continuing deterioration of the economic, social and cultural rights in Iraq since the beginning of the hostilities with the Islamic Republic of Iran and further since the Gulf war

and the adoption of sanctions. In this respect, the Committee, reiterating the concern it expressed in its previous concluding observations (E/C.12/1994/6, para. 6), notes that sufficient measures have not been taken to date by the authorities to alleviate the extremely difficult living conditions of the Iraqi population and the deprivation of most of their basic economic, social and cultural rights.

11. The Committee expresses regrets for the lack of statistical information on the economic, social and cultural situation in Iraq in the report and in the dialogue with the delegation.

12. The Committee notes with concern the lack of information on any measures taken by the State party to spread awareness of human rights, and especially economic, social and cultural rights, among the population.

13. The Committee expresses concern about reports of discrimination against members of certain minorities, and especially the Kurds, Marsh people, Assyrians, Shi'a Muslims and Turkomans, with respect to their enjoyment of rights under the Covenant. Furthermore, the Committee notes with deep concern reports stating that the effect of the embargo is harsher on members of racial, ethnic or religious minorities, and that there exists discrimination in the allocation by the authorities of the limited resources available between rural and urban areas, and against the southern region with respect to the Marsh people.

14. With respect to article 3 of the Covenant, the Committee expresses concern about discrimination against women, in law and in practice, concerning inheritance rights, freedom of movement, family law, equal remuneration for equal work, and access to employment. With respect to the latter, the Committee notes with concern that the unemployment rate is higher among women than among men.

15. The Committee expresses its concern that it is possible, under Law No. 104 of 1981 and the Penal Code, to condemn a person to compulsory labour, as a part of a prison sentence, in cases of expression of political opinions or ideological opposition to the political, social or economic system, for breach of labour discipline or for participation in strikes. The Committee finds that this practice is designed to prevent or inhibit free expression in relation to policies and practices which have a direct bearing upon the enjoyment of economic, social and cultural rights.

16. The Committee notes with concern that, in contravention of the provisions of article 8 of the Covenant, independent trade unions are not allowed in Iraq, since the 1987 Trade Union Organization Law establishes a single trade union structure, centralized within the General Federation of Trade Unions, which is in turn controlled by the ruling Ba'ath party. The Committee also notes that public sector workers and workers in State-owned enterprises are not allowed to join trade unions. Furthermore, the Committee notes with concern that the 1987 Law does not recognize the right to bargain collectively and that severe restrictions, including penal sanctions, are imposed on the right to strike.

17. Taking note of the report of the Committee of Experts of the International Labour Organization on the implementation of ILO Conventions No. 19 and No. 118, the Committee expresses its concern that, under section 38 (b) (ii) of the Workers' Pension and Social Security Law No. 39 of 1971, the payment of benefits abroad to a citizen of another country will only be ensured if he returns to his country of origin at the end of his insured period of service. The Committee notes that this precludes workers who leave Iraq before their contract period has expired or who settle in a country other than their country of origin from receiving their benefits. Further, in accordance with section 38 (b) (iii) of the Law, payment of benefits is made outside Iraq only under reciprocity agreements or international labour conventions, and are subject to authorization under Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq. Furthermore, the Committee notes with concern the declaration by the delegation that, due to the current situation in Iraq, all such payments have been suspended.

18. With respect to article 9 of the Covenant, the Committee notes that, although Iraq's legislation makes provision for social security, the implementation of that law has been hampered by the current economic difficulties facing the country due to the severe reduction of the State party's income.

19. The Committee further expresses its concern about the increase in child labour, and regrets the lack of information on any measures taken by the authorities to address this problem. In particular, the Committee regrets the lack of information on any inspection mechanisms in place to survey the implementation of the Labour Act No. 71 of 1987 regulating the protection of young persons with regard to employment and conditions of work. Moreover, the Committee notes with concern that, in accordance with article 96 of the Labour Code, children employed in family undertakings under the authority or supervision of the father, mother or brother are not protected by the specific provisions of Labour Act No. 71 of 1987.

20. With respect to the right to adequate housing under article 11 of the Covenant, the Committee expresses its concern about reports of discrimination in the enjoyment of this right, especially in relation to forced evictions of members of certain minorities (Kurds, Turkomans and Shi'a Muslims) and the situation of "squatters" in urban areas.

21. The Committee notes with concern that, according to a survey conducted in 1995 by government agencies with the support of UNICEF, 50 per cent of the rural population in the central/southern part of Iraq had no access to potable water supplies. This figure increases to 90 per cent in the southern governorate of Thigar. In this respect, the Committee stresses that this situation does not conform with the provisions of article 11 of the Covenant on the right of the population to an adequate standard of living.

22. With respect to article 12 of the Covenant, the Committee notes with concern that, with the destruction of parts of the infrastructure in Iraq, the non-availability of safe drinking water has led to widespread contaminated water and related health problems, such as water-borne and diarrhoeal diseases and cholera. The Committee also notes with concern that, due to food

shortages and the resulting restrictions on its distribution, and to the non-availability of certain medicines, medical equipment and other articles of personal hygiene in Iraq, the standard of physical health of the Iraqi population is declining at a rapid pace. It notes in particular that certain diseases, previously eradicated from Iraq, have reappeared, such as typhoid, infantile paralysis, tetanus, viral hepatitis, Giarda, German measles, kala-azar, undulant fever, haemorrhagic fever, croup, whooping cough, rickets, scabies, hydrocysts and rabies.

23. The Committee is alarmed by the rapidly increasing rate of illiteracy in Iraq, now estimated at 54 per cent, especially among women, a situation aggravated by the current difficult situation.

24. The Committee reiterates its concerns with respect to the lack of information on the implementation of article 13 of the Covenant regarding: mandatory and free primary education; human rights education; equal educational opportunities for women; the lack of available statistical and other data with respect to the implementation of the right to education in Iraq; infringements of academic freedom by the authorities; measures that affect the cultural heritage of certain religious communities and minorities; and Government control over the choice and broadcasting of minority language radio programmes (E/C.12/1994/6, paras. 9 and 11-14).

E. Suggestions and recommendations

25. The Committee urges the State party to take all appropriate measures in order to ensure, to the maximum extent of its available resources, the implementation of economic, social and cultural rights, in accordance with article 2, paragraph 1, of the Covenant. In this respect, the Committee calls the attention of the State party to its General Comment No. 3 on the nature of States parties' obligations, and especially to paragraphs 10 to 13. Moreover, the Committee suggests that close cooperation with United Nations organs and specialized agencies be initiated to achieve the full and expeditious implementation of all the clauses of the "oil for food" agreement, with a view to promoting the realization of economic, social and cultural rights with respect to all groups living in Iraq.

26. The Committee recommends that measures be taken to gather systematic quantitative and qualitative data, disaggregated in accordance with criteria used by the United Nations and its specialized agencies, on all rights covered by the Covenant, with a view to assessing and evaluating progress achieved, identifying prevailing difficulties and setting priorities for future action.

27. The Committee recommends that urgent and concrete steps be taken to ensure that the provisions of the Covenant are made widely known among the population. To this end, the Committee recommends that systematic education programmes on the rights enshrined in the Covenant be set up in all schools and other educational institutions.

28. The Committee also recommends that the independence of the existing Human Rights Commission be ensured, and that it be empowered to receive and investigate complaints from individuals of violations of their human rights, including their economic, social and cultural rights.

29. The Committee recommends that, in accordance with article 2, paragraph 2, of the Covenant, measures be taken to guarantee that the rights enunciated in the Covenant are "exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", and in this regard, it makes particular reference to the situation of the Kurds, the Marsh people, Assyrians, Shi'a Muslims and Turkomans.

30. With respect to discrimination against women, the Committee recommends that the Government pursue its policies designed to achieve full equality between men and women in all areas of economic, social and cultural life. In particular, it recommends that a thorough review of the domestic legislation be carried out in order to eliminate any remaining discriminatory legal provisions, specific remedies be made available to women victims of sexual discrimination, and information and education campaigns be carried out to that end.

31. The Committee recommends that Law No. 104 of 1981 and the Penal Code, which provide for compulsory labour in cases of expression of political opinions or ideological opposition to the political, social or economic system, for breach of labour discipline or for participation in strikes, be reviewed and brought into conformity with article 6, paragraph 1, of the Covenant and ILO Convention No. 29 on forced labour.

32. The Committee also recommends that a thorough review of legislation governing trade union rights, the right to strike and the right to bargain collectively be undertaken as a matter of priority in order to comply with article 8 of the Covenant.

33. The Committee recommends that the social security laws in force in Iraq be applied without any discrimination. To this end, the Committee suggests that Law No. 39 of 1971 on Workers' Pension and Social Security be reviewed.

34. The Committee urges the Government to provide, in its next periodic report, concrete and comprehensive information on measures taken or foreseen in order to address the psychological and emotional problems affecting children after years of armed conflict and related economic and social constraints, and the problem of child labour. Moreover, the Committee stresses the need for protection of all working minors, including those employed in family undertakings, and it recommends that article 96 of the Labour Code be reviewed accordingly.

35. The Committee recommends that all appropriate measures be taken by the authorities to implement, without discrimination, the right to adequate housing under article 11 of the Covenant, and calls the attention of the State party to its General Comment Nos. 4 and 7.

36. The Committee recommends that every effort be made by the Government to ensure, through the development of adequate infrastructure in all parts of the country, access to potable water by the population as a whole, especially in the rural areas.

37. The Committee, while being aware that the embargo imposed on Iraq creates extremely difficult conditions with respect to the availability of food, medicines and medical articles, recommends that the Government take all necessary measures, to the maximum extent of its available resources, to address the needs of the population, and in particular to the most vulnerable groups such as children, the elderly and nursing mothers, with respect to article 12 of the Covenant.

38. With respect to articles 13 to 15 of the Covenant, the Committee reiterates the recommendations it addressed to the State party in its concluding observations adopted upon the consideration of Iraq's second periodic report on these articles (E/C.12/1994/6, paras. 15-19).

39. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the third periodic report which remained unanswered, be addressed in the State party's fourth periodic report, and it encourages the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's third periodic report.